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REBUTTAL TESTIMONY OF FRANK SEIDMAN
BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION
REGARDING THE APPLICATION FOR TRANSFER OF
ECON UTILITIES TO WEDGEFIELD UTILITIES
IN ORANGE COUNTY
DOCKET NOS. 960235-WS & 960283-WS

Q. Please state your name, profession and address.
A. My name is Frank Seidman. I am President of Management and Regulatory Consultants, Inc., consultants in the utility regulatory field. My mailing address is P.O. Box 13427, Tallahassee, FL 32317-3427.

Q. What is the nature of your engagement with the Applicant, Wedgefield Utilities, Inc. (Wedgefield)?
A. I was engaged by Wedgefield to respond to the direct testimony of Thomas C. De Ward, witness for the Office of Public Counsel (OPC), as it regards his recommendation for a negative acquisition adjustment.

- ACK _____
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1 Q. State briefly your educational background and
2 experience.

3 A. I hold the degree of Bachelor of Science in
4 Electrical Engineering from the University of
5 Miami. I have also completed several graduate level
6 courses in economics at Florida State University,
7 including public utility economics. I am a
8 Professional Engineer, registered to practice in
9 the state of Florida. I have over 30 years
10 experience in utility regulation, management and
11 consulting. This experience includes nine years as
12 a staff member of the Florida Public Service
13 Commission, two years as a planning engineer for a
14 Florida telephone company, four years as Manager of
15 Rates and Research for a water and sewer holding
16 company with operations in six states, and three
17 years as Director of Technical Affairs for a
18 national association of industrial users of
19 electricity. I have either supervised or prepared
20 rate cases, rates studies, certificate
21 applications and original cost studies or testified
22 as an expert witness with regard to water and
23 wastewater utilities in Florida, California,
24 Indiana, Michigan, Missouri, North Carolina and
25 Ohio.

1 RESPONSE TO OPC'S GENERAL RECOMMENDATION

2 Q. What is the general recommendation of Mr. De Ward's
3 testimony?

4 A. The general recommendation is that the Commission
5 establish a negative acquisition adjustment to
6 reduce rate base.

7

8 Q. Do you agree with his recommendation?

9 A. No. To accept Mr. De Ward's recommendation would
10 require the Commission to reverse its well
11 established policy regarding acquisition
12 adjustments for water and wastewater utilities.

13

14 Q. What is the Commission's policy regarding
15 acquisition adjustments?

16 A. The Commission's policy is that "absent
17 extraordinary circumstances, the purchase of a
18 utility system at a premium or a discount shall not
19 effect rate base."

20

21 Q. Is this a new policy?

22 A. No. It has been the expressed policy of the
23 Commission since approximately 1983.

24

1 Q. Has this policy simply remained in effect all these
2 years without any further review by the Commission
3 as to its appropriateness?

4 A. No. The Commission has considered and reaffirmed
5 its policy. In fact, in 1990, the Commission opened
6 an investigation into its acquisition adjustment
7 policy in response to the urging of OPC. After
8 considering written comments, and verbal comments
9 received at an informal workshop, the Commission
10 issued Order No. 23376, a Proposed Agency Action
11 (PAA) Order, on August 21, 1990, confirming its
12 acquisition adjustment policy. OPC protested the
13 PAA and all parties were afforded the opportunity
14 to present their views at an oral presentation on
15 July 29, 1991. Then on February 17, 1992 the
16 Commission issued its Order No. 25729 reaffirming
17 the policy it had been following since 1983.

18
19 Q. In Order No. 25729 did the Commission indicate the
20 reason for its policy?

21 A. Yes. The order indicates that the purpose of the
22 policy is to create an incentive for larger
23 utilities to acquire small, troubled utilities.

24

1 Q. Did the Commission discuss whether it anticipated
2 any benefits as result of its policy?

3 A. Yes. The Commission discussed several beneficial
4 changes that can result from new ownership of
5 utilities purchased under its acquisition
6 adjustment policy. They include:

7 a. the elimination of financial pressure due to the
8 inability [of the old owner] to attract capital;
9 b. the ability [of the new owner] to attract
10 capital;
11 c. a reduction in the high cost of debt [of the old
12 owner] due to lower risk [of the new owner];
13 d. the elimination of substandard operating
14 conditions;
15 e. the ability [of the new owner] to make necessary
16 improvements;
17 f. the ability [of the new owner] to comply with
18 DEP regulatory requirements;
19 g. reduced costs due to economies of scale and the
20 ability [of the new owner] to buy in bulk;
21 h. the introduction of more experienced management;
22 and
23 i. the elimination of a general disinterest in
24 utility operations in the case of a developer owned
25 system.

1 The Commission also indicated that the customers of
2 utilities acquired under its acquisition adjustment
3 policy are not harmed, and indeed benefit from a
4 better quality of service at a reasonable rate.
5

6 Q. Do you agree with the Commission's policy and its
7 results?

8 A. Yes, I do. I believe it is a wise policy for
9 several reasons. First, it works. As a result of
10 the Commission's known and dependable policy
11 regarding acquisition adjustments, many small
12 troubled utilities have been purchased by
13 experienced larger utilities with funds necessary
14 to support and maintain the plant serving the
15 public. Because of this, the customers of those
16 systems can be confident of better service in the
17 future.

18
19 Second, it provides a means for customers to
20 receive a better quality of service, more
21 experienced management and access to economies of
22 scale in construction and operations.

23
24 Third, the Commission's policy assures that, except
25 in extraordinary circumstances, there will be

1 continuity and consistency in rate base, that rate
2 base reflects the actual costs incurred to provide
3 service to utility customers, and that rates will
4 not fluctuate simply as a consequence of changes in
5 ownership.

6
7 Q. Is the transfer of ownership in this case the type
8 of transfer that the Commission's policy is
9 intended to encourage?

10 A. Yes. The transfer of Econ Utilities to Wedgefield
11 Utilities is just the type of transfer intended to
12 be encouraged by existing Commission policy. As Mr.
13 Wenz's prefiled testimony explains, Econ, a
14 developer-related utility, lacks the financial
15 ability to maintain its system on a regular basis
16 and to invest in facilities necessary to meet
17 anticipated growth. According to Mr. Wenz, the
18 owners of Econ are no longer interested in
19 operating or investing in the utility system.

20
21 Q. Will the transfer produce benefits anticipated
22 under existing Commission policy?

23 A. Yes. Again, Mr Wenz's testimony outlines the
24 anticipated benefits, and they closely match those
25 described in Commission Order No. 25729.

1 RESPONSE TO SPECIFIC COMMENTS AND ALLEGATIONS

2 Q. At pages 6 through 8 of his direct testimony, Mr.
3 De Ward engages in a discussion to arrive at, what
4 he refers to as the "worth," "value," or "fair
5 value" of the purchased utility's assets. Is this
6 information of any use to the Commission?

7 A. No. Whatever variation of "value" analysis OPC
8 wants to make, it has no meaning in the context of
9 ratemaking under the current requirements and
10 authority of Chapter 367, Florida Statutes. This
11 Commission sets rates based, not on so-called
12 "worth" or "value," but on cost; specifically, the
13 original cost of utility property when first
14 dedicated to public service. It has done so since
15 1971, when the Florida legislature removed from the
16 statutes any reference to the vague "fair value"
17 ratemaking concept.

18
19 Q. How has this Commission interpreted the statute
20 with regard to the cost basis for ratemaking?

21 A. The Commission has made the interpretation that
22 under the Chapter 367, F.S., the investment of the
23 utility means the original cost of property when
24 first dedicated to public service. The Commission

1 took issue with OPC's interpretation of the
2 statute, and in Order No. 25729, concluded:
3

4 On the point of statutory interpretation,
5 we disagree with OPC. We do not think
6 that Section 367.081(2)(a), Florida
7 Statutes limits us from including in rate
8 base only that which an acquiring utility
9 has invested in the system, i.e., the
10 purchase price, as OPC asserts. This
11 Commission has consistently interpreted
12 the "investment of the utility" as
13 contained in Section 367.081(2)(a),
14 Florida Statutes to be the original cost
15 of the property when first dedicated to
16 public service, not only in the context
17 of acquisition adjustments, but elsewhere
18 as well. In our current policy on
19 acquisition adjustments, we do not
20 deviate from this interpretation, nor do
21 we exceed our statutory authority.
22 (Emphasis added.)
23
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1 Q. At page 7 of his direct testimony, Mr. De Ward
2 asserts that without a negative acquisition
3 adjustment, a debit deferred tax charge will be
4 generated. Is he correct?

5 A. No. A debit deferred tax charge will not be
6 generated. A credit deferred tax charge will
7 continue to be generated, resulting from the
8 difference between the accelerated and straight
9 line depreciation expense calculated on the tax
10 basis of assets.

11

12 Q. At pages 7 and 8 of his testimony, Mr De Ward
13 states that the Seller believes the value of the
14 assets to be \$545,000. Would you please comment on
15 that assertion?

16 A. Yes. Mr. De Ward quotes from a May 14, 1996 letter
17 to the Orange County Property Appraiser's Office
18 from a then utility owner, Mr. Forrer. In his
19 letter, Mr. Forrer argued that his property taxes
20 should be lowered and based on the selling price,
21 which estimates fair value, regardless of the
22 historic book value. What Mr. Forrer argued for
23 property tax purposes is irrelevant. It is
24 significant, however, that in the last line of the
25 quotation from Mr. Forrer's letter, Mr. Forrer

1 makes it quite clear that he does not confuse fair
2 market value for property tax assessment purposes
3 with rate base for ratemaking purposes. County tax
4 assessors are not uniform in their methodology of
5 assessing utility property. Some have based
6 assessments on a an amount per customer. Some have
7 made allowances for CIAC. Some have made allowances
8 for non-used plant. In the end, the final
9 assessment may often be the result of negotiations.
10 But whatever approach is used in assessing property
11 for purposes of taxation and whatever estimate of
12 "fair market value" results, it is irrelevant to
13 this Commission for determining rate base. This
14 Commission sets rate base at the net original cost
15 of assets serving the public, and the Commission
16 rightly should ignore property tax assessments in
17 determining rate base.
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1 Q. Continuing at page 8 of Mr. De Ward's testimony, he
2 indicates that his key element for determining the
3 "worth" of the utility assets is their physical
4 condition and the amount of improvements necessary
5 to bring them to an "acceptable" condition. Would
6 you respond to his statement regarding the
7 condition of the utility?

8 A. Yes. First, to reiterate, I have already testified
9 that the "worth" or "value" concept sought by Mr.
10 De Ward is of no import with regard to setting
11 rates in Florida. That aside, he then uses the next
12 eight pages of his testimony to provide his second-
13 hand opinion of the condition of the plant and how
14 the Commission should, in some manner, use it to
15 justify a negative acquisition adjustment.

16
17 Q. Is Mr. De Ward's characterization of the condition
18 of plant correct?

19 A. No. As I indicated, it is a second-hand opinion.
20 Mr. De Ward testified that not only did he not
21 inspect the utility facilities, he "didn't have
22 to." He apparently believed it was sufficient to
23 rely on bits and pieces of draft and partial
24 reports, taken out of context and without regard to
25 their purposes. For example, he relies on an

1 acquisition feasibility analysis prepared by and
2 for the Orange County Public Utilities Division
3 (PUD). The specifically stated premise of the
4 analysis was that the utility be evaluated for
5 possible purchase by the County with the assumption
6 that it would be integrated into the County's water
7 and wastewater system. The analysis then details
8 some \$4.6 million in "costs" allegedly needed to
9 bring the system up to County "standards". There is
10 an inference that this amount of money must be
11 spent because the utility system is "substandard".
12 That is an incorrect inference and it is
13 misleading. Remember, this utility operates under
14 the environmental jurisdiction of both the Florida
15 Department of Environmental Protection (FDEP) and
16 the Orange County Environmental Protection
17 Department (OCEPD). It is inspected regularly by
18 FDEP and OCEPD. These are the agencies that provide
19 standards for Wedgefield and determine what is
20 necessary for compliance, based on federal and
21 Florida laws and regulations. The Orange County PUD
22 does not. The Public Utilities Division is just
23 another operating utility with no authority over
24 Wedgefield or any other utility, except itself.
25 Wedgefield is in compliance with the requirements

1 of the FDEP and Orange County. So if the utility is
2 already in compliance with County requirements, why
3 would it be necessary to expend \$4.6 million to
4 "bring it up to County standards"? The answer is,
5 it isn't necessary, as long as the utility operates
6 independently. but the PUD analysis assumed that,
7 if purchased, the utility would not operate
8 independently.

9

10 Q. Then what are the standards to which the analysis
11 refers?

12 A. They are standards which the County PUD has imposed
13 on itself, for its system, and they are not
14 necessarily required for, or a sound economical
15 undertaking for, an independent utility to provide
16 safe, efficient and sufficient service. For
17 instance, out of the \$4.6 million identified as
18 capital improvements by the PUD, \$3.3 million is
19 either to relocate mains from rear lot lines to
20 front lot lines or to replace all of the existing
21 C-A pipe or to replace all of the cast iron pipe at
22 once because it is asserted to be "old." There is
23 no requirement on a privately owned utility to
24 engage in such a massive replacement program, nor
25 is Orange County or the FDEP requiring the utility

1 to do so. Over time, replacement of mains has been,
2 and will continue to be, necessary. That is true in
3 any system. But it is misleading to imply that \$3.3
4 million must be spent now to "rehabilitate" the
5 system so that service will not "suffer." In fact,
6 the Application for Transfer filed in this docket
7 identifies projects totalling \$409,000 as the
8 approximate cost of anticipated improvements and
9 repairs, and of that amount more than half is
10 related to capacity expansion.

11
12 Q. Is all of the remaining \$1.3 million in capital
13 improvements identified by the PUD necessary to
14 "rehabilitate" the existing system?

15 A. No. Approximately 65% of it is related to
16 expansion. The remaining 35%, or approximately
17 \$500,000 may be associated with existing
18 facilities, but there is nothing in the PUD
19 analysis that indicates that such needs are
20 immediate.

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- 1 Q. According to Mr. De Ward, the PUD analysis
2 indicates that maintenance and repairs have been
3 performed on an "emergency basis" only. Is Mr. De
4 Ward correct?
- 5 A. He is correct that the PUD analysis characterizes
6 the maintenance of the utility as being performed
7 on an "emergency basis" only. However, there is
8 nothing in the report to substantiate that
9 statement. The PUD analysis was made at a point in
10 time. It is sheer conjecture to conclude that if
11 there is not a preventive maintenance program, that
12 all maintenance is performed on an emergency basis.
13 Maintenance may be performed on an "as needed"
14 basis without every instance being an emergency. An
15 emergency implies that a crisis will exist if
16 immediate action is not taken. I have seen nothing
17 in the PUD analysis that leads one to reach that
18 conclusion.
- 19
- 20 Q. Also, according to Mr. De Ward, the PUD analysis
21 indicates that there was no preventive maintenance
22 program in effect. Is that correct? And if so,
23 would you be surprised if that were the case?
- 24 A. Again, Mr. De Ward is correct that the PUD analysis
25 stated that no preventive maintenance program

1 existed. I do not know on what basis they reached
2 that conclusion. However, if that were the case, I
3 would certainly not be surprised. I have reviewed
4 the annual reports to the Commission of the selling
5 utility, Econ Utilities Corporation (Econ), for the
6 period 1988 - 1995. The utility incurred an
7 operating loss in each of those years and a
8 cumulative loss of over \$2 million in operating
9 income and \$4 million in net income. It is obvious
10 that Econ was not in a position to increase its
11 maintenance expenses or to actively pursue a
12 capital improvement program or finance capital
13 additions. But the new owner is in a position to do
14 this, and that is an intended benefit of the
15 purchase, as contemplated by the Commission's
16 existing policy on acquisition adjustments.

- 17
- 18 Q. At page 12 of his testimony, Mr De Ward quotes from
19 a report prepared by Econ's engineering firm. What
20 is the substance of that quotation?
- 21 A. The substance of the quotation is that the utility
22 ought to start putting away some money to prepare
23 for the eventual replacement of all C-A lines.
24

1 Q. Do you know what Mr. De Ward's purpose was in
2 quoting that part of the report?
3 A. I can only surmise that he wanted to make the
4 Commission aware that the C-A lines should
5 eventually be replaced.
6
7 Q. Do you agree that they should eventually be
8 replaced?
9 A. Yes, when they reach the end of their useful lives.
10
11 Q. Does this have anything to do with determining rate
12 base?
13 A. No; not until the lines are actually replaced and
14 not until a change in rates is considered and the
15 rate base reviewed by the Commission.
16
17 Q. Have you seen the document referred to by Mr. De
18 Ward?
19 A. Yes. It is an incomplete document and is a
20 preliminary proposal of the utility's engineering
21 consultant. It consists only of an external cover
22 sheet, a summary of recommendations section with
23 unnumbered pages, an internal cover sheet, a table
24 of contents with the page number column left blank,
25 and some tables and charts. The table of contents

1 indicates there are supposed to be three sections
2 and numerous recommendations. The report was never
3 completed; there is no text; and the section that
4 would have translated any recommended improvements
5 into customer rates and fees was never done.
6

7 Q. At page 13 of his testimony, Mr. De Ward quotes
8 some comments from a 1994 PSC Staff engineer's
9 memorandum to file. What do those comments suggest?
10 A. That some parts of the utility are in need of
11 repair or replacement. But none of the items listed
12 were major or out of the ordinary.
13

14 Q. Do these have anything to do with determining rate
15 base?
16 A. No; not unless they require capital improvements,
17 such improvements are made, and they are subjected
18 to review by this Commission in a rate proceeding.
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1 Q. Beginning at page 13 of his testimony, Mr. De Ward
2 provides some excerpts from correspondence between
3 the seller and the buyer and internal
4 correspondence of the buyer. What is the
5 significance of this correspondence with regard to
6 an acquisition adjustment?

7 A. There is no significance. The correspondence
8 speculates as to what future improvements may or
9 may not be needed and how much those improvements
10 might cost. The proper time for the Commission to
11 consider such matters is when and if the utility
12 requests a change in rates predicated upon those
13 improvements.
14

15 Q. At page 17 of his testimony, Mr. De Ward states
16 that if the Commission does not recognize a
17 negative acquisition adjustment, the Company will
18 benefit at the expense of the customer. Do you
19 agree?

20 A. No. Absolutely not. Such a conclusion is an
21 absurdity. The Commission policy is to place the
22 buyer in the shoes of the seller. This means that
23 there is absolutely no impact on and no harm to the
24 customer. The Commission specifically made that
25 finding in Order No. 25729. Any benefit that the

1 new owner may receive is at the expense of the
2 seller, not at the expense of the customer. If the
3 seller received less than book value for his
4 assets, that's his problem. Just as, if the buyer
5 paid more than book value it's at the buyer's
6 expense, not at the expense of the customer. That
7 is the intended effect of the Commission's
8 acquisition policy. The customer's position
9 remains neutral when ownership of the utility
10 changes, regardless of whether the buyer pays book
11 value, less than book value or more than book
12 value. As pointed out in Order No. 2579, the
13 Commission's existing policy translates into
14 benefits for the customer. On the other hand, as
15 the Commission stated in Order No. 23376 regarding
16 OPC's argument in support of a negative acquisition
17 adjustment, "Not only might OPC's proposed change
18 not benefit the customers of troubled utilities, it
19 might actually be detrimental, by removing any
20 incentive for larger utility companies to acquire
21 distressed systems."
22
23

- 1 Q. Also at page 17 of his testimony, Mr. De Ward
2 asserts that the utility will be allowed to earn an
3 excessive return. Is that correct?
- 4 A. No. The utility will continue to be afforded the
5 opportunity to earn a fair return on the net
6 original cost of the assets, used and useful in
7 serving the public. From the customer's point of
8 view, nothing changes as a result of the change in
9 ownership.
- 10
- 11 Q. Mr. De Ward also asserts that the utility will be
12 allowed to recover depreciation expense on the
13 original cost of the assets. Is that correct?
- 14 A. Yes. Under the Commission's acquisition adjustment
15 policy, the utility will continue to be allowed
16 depreciation expense on the original cost of
17 assets serving the public. Again, from the
18 customer's point of view, nothing changes as a
19 result of the change in ownership.
- 20
- 21 Q. With regard to return and depreciation expense, has
22 Mr. De Ward pointed out anything of which the
23 commission is not aware?
- 24 A. No. Not only is the Commission aware that the
25 utility will continue to earn a return on and take

1 depreciation on the net original cost of assets
2 used and useful in serving the public, it is a
3 center piece of its acquisition adjustment policy.
4 And, unlike Mr. De Ward, the Commission recognizes
5 that this policy does no harm to the customer, and
6 indeed, the customer will receive benefits. The
7 Commission, at page 3 of Order No. 25729, the order
8 concluding its investigation on acquisition
9 adjustment policy, stated:

10
11 We still believe that our current
12 policy provides a much needed
13 incentive for acquisitions. The
14 buyer earns a return on not just the
15 purchase price but the entire rate
16 base of the acquired utility. The
17 buyer also receives the benefit of
18 depreciation on the full rate base.
19 Without these benefits, large
20 utilities would have no incentive to
21 look for and acquire small, troubled
22 systems. The customers of the
23 acquired utility are not harmed by
24 this policy because, generally upon
25 acquisition, rate base has not

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changed, so rates have not changed.
Indeed, we think the customers
receive benefits which amount to a
better quality of service at a
reasonable rate. (Emphasis added.)

Clearly, Mr. De Ward is just re-arguing the OPC
position rejected by the Commission in Order No.
25729.

- Q. With regard to his comments on depreciation expense
at page 17 of his testimony, Mr. De Ward states
that the Company will be allowed to recover a
return of assets which do not exist. Do you agree?
- A. No. Of course the assets exist. They didn't
disappear when ownership of the utility changed.
And the depreciation expense on used and useful
plant that accrues is a necessary source of revenue
that can be available to fund asset replacements or
improvements. If the revenues from depreciation
expense on used and useful plant are not available,
the funds would have to come from somewhere and
that somewhere is additional utility funding, the
return on which would end up in rates.
Depreciation expense averages about 4% of the asset

1 cost and there is no tax consequence. Replacing
2 those funds with investment will cost about 12-14%,
3 including any tax effect. Disallowing recovery of
4 depreciation expense definitely would be at the
5 customer's expense.

6
7 Q. At page 20 of his testimony, Mr. De Ward implies
8 that because the utility was purchased at less than
9 net book value, that is an indication something is
10 wrong with the plant and facilities. Do you agree
11 with his implication?

12 A. Not at all. The fact is, this was an arm's length,
13 negotiated purchase. The sellers had their reasons,
14 whatever they were, for selling at below net book
15 value. I would surmise that sustaining a \$4
16 million loss over an 8 year period may have had
17 something to do with it. And the fact that
18 substantial investment will be needed to meet
19 anticipated growth may have played a part. Also,
20 the fact that the previous owner is primarily a
21 developer and wants to devote its capital to
22 development probably may have had something to do
23 with it, too. But, based upon my own inspection of
24 the plant, I do not believe that the condition of
25 the existing plant would have been a significant

1 factor in a decision to sell at a price less than
2 net book value.

3

4 Q. At page 21 of his testimony, Mr. De Ward explored
5 whether the purchased utility was a "troubled
6 utility." His conclusion was he was not sure. How
7 do react to that conclusion?

8 A. I find that conclusion amusing. He used a
9 substantial part of his testimony to imply that
10 this utility was like a car about to lose its
11 wheels, that the expense to just keep it running
12 would be enormous, and that the previous owner did
13 practically nothing to maintain it. Then, when it
14 comes to determining whether the utility is
15 troubled, he turns to the PSC staff Engineer's
16 report which says, well it's not so bad, it needs
17 some improvements, but there is no problem with the
18 water, and the wastewater plant is fine.

19

20

21 Q. Why do you think Mr. De Ward balked at concluding
22 that the utility may be "troubled."

23 A. In my opinion, because he knows the purpose of the
24 Commission's acquisition policy is to give large
25 utilities an incentive to purchase small,

1 "troubled" utilities. If he admits the utility is
2 troubled, then that supports the applicability of
3 the Commission's policy of no negative acquisition
4 adjustment for this purchase.

5
6 Q. In your opinion, is the utility "troubled?"

7 A. Yes. It is financially troubled. As I previously
8 indicated, the utility has been operating at a
9 continual loss since at least 1988. The prior owner
10 performed maintenance only on an "as needed" basis.
11 Capital improvements were often deferred. Now, the
12 utility faces the need for capital improvements for
13 growth and for replacement of aging plant. The
14 prior owner either was not in a position to attract
15 capital and make the necessary investment or was
16 unwilling to do so. These are just the type of
17 "troubles" that acquisition by a stable, adequately
18 funded utility can solve and the kind of
19 acquisition that the Commission acquisition policy
20 was meant to encourage.

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1 Q. Mr. Seidman, current Commission policy is that,
2 absent extraordinary circumstances, the purchase of
3 a utility system at a premium or at a discount
4 shall not effect rate base. Does Mr. De Ward
5 indicate any extraordinary circumstances in this
6 case?

7 A. The only mention Mr. De Ward makes of extraordinary
8 circumstances is his view of the purchase price.
9

10 Q. Is that the type of extraordinary circumstance
11 contemplated by Commission policy?

12 A. In my opinion, no. Most often, an extraordinary
13 circumstance is a concern when a system is
14 purchased at a premium. Then the question is
15 clearly, "will increasing rate base by an amount in
16 excess of the historical costs, through a positive
17 acquisition adjustment, result in benefits to the
18 customer that outweigh the positive adjustment?"
19 Personally, I cannot think of any circumstance so
20 extraordinary as to justify an adjustment to reduce
21 rate base below the costs originally incurred to
22 serve the customers. I do know that during the
23 rulemaking hearings regarding revision of the water
24 and wastewater rules in Docket No. 911082-WS, the
25 PSC staff even discussed such circumstances as

1 purchasing assets that were so far deteriorated as
2 to be non-functioning. But that circumstance does
3 not exist in this case. In my opinion, even if that
4 condition existed it would not be sufficient reason
5 to impose a negative acquisition adjustment. And
6 the reason is, that for ratemaking purposes, any
7 plant condition can be addressed in rate case
8 adjustments for prudence and used and useful. If an
9 asset is not functioning, it can be excluded from
10 rate base in a rate case setting. If an investment
11 is made to replace plant that the Commission finds
12 was imprudently purchased, it can be adjusted out
13 of rate base in a rate case setting. But a negative
14 acquisition adjustment is an across the board write
15 down without the benefit of exploring the condition
16 and functions of plant, item by item, the
17 underlying circumstances, and without the ability
18 for reversal if any circumstance is corrected. Mr.
19 De Ward has not made a case for extraordinary
20 circumstances. He has only shown general
21 dissatisfaction with Commission policy, and that is
22 not what is at issue here.

23

1 Q. Under the Commission's acquisition adjustment
2 policy, who has the burden of proof to support
3 making an acquisition adjustment?

4 A. The Commission's policy is clear that there will be
5 no acquisition adjustment for ratemaking purposes,
6 absent extraordinary circumstances. The burden of
7 proof rests with the party requesting an
8 acquisition adjustment, whether positive or
9 negative, and that party must show extraordinary
10 circumstances.

11

12 Q. If Mr. De Ward's proposal to reduce rate base
13 through a negative acquisition adjustment were to
14 be accepted by the Commission, would there be any
15 detrimental consequences?

16 A. Yes. Many of the benefits which the Commission
17 identified in its Order No. 25729 would not be
18 available to the customers of a utility being
19 considered for acquisition. In addition, rates that
20 are set to recover a return on a rate base that has
21 been reduced by a negative acquisition adjustment
22 would not reflect the actual cost of providing
23 water and wastewater service to the customers of
24 the utility. The rate base, excluding a negative
25 acquisition adjustment, is the actual cost of the

1 assets serving those customers. Those dollars were
2 actually spent to provide service to those
3 customers. The transfer of the system from one
4 owner to another does not change that fact.
5 Further, it is important to use the costs which
6 were actually incurred in order to encourage the
7 conservation of scarce resources. Water rates set
8 below cost would give customers a false signal
9 regarding the cost of obtaining, treating and
10 distributing potable water. Water is a precious
11 resource that should be conserved and rates set at
12 less than cost encourage excessive use. Wastewater
13 rates set below cost would give a false signal as
14 to the cost of treating and disposing of wastewater
15 in an environmentally acceptable manner and would
16 understate the cost to conserve and preserve our
17 natural resources.

18
19 Finally, imposing a negative acquisition
20 adjustment would discourage the purchase of a
21 system such as Econ, and that thwarts
22 Commission policy and is a detrimental
23 consequence.

24
25

1 Q. If Econ were not purchased and if Econ were to
2 continue to operate under the old ownership, what
3 would be the result?

4 A. Econ would be entitled to apply for rates based on
5 the net original cost of assets serving the public.
6 (That is the same asset base that the Commission
7 would deny to a purchaser if it were to impose a
8 negative acquisition adjustment.) However, with
9 limited capital for improvements, service would
10 deteriorate further; without access to capital at
11 reasonable costs, any capital it could obtain would
12 be more costly; and without access to economies of
13 scale and bulk purchasing the cost of improvements
14 would be higher. Clearly, Econ utility customers
15 are better off with the utility being purchased
16 under the current Commission acquisition adjustment
17 policy, than to continue to be served under the old
18 ownership.

19
20 Q. If the Commission approves the \$2,845,391
21 determined to be the rate base by the Commission
22 auditor, is that the amount upon which future rates
23 will be based?

24 A. Not necessarily. First of all, existing rates are
25 not based on that amount. Rate base is being set in

1 this docket only for the purpose of establishing
2 the cost of the assets transferred. It is not
3 establishing rate base for the purpose of setting
4 rates. That will be done only if and when the
5 utility requests a change in its rates. The last
6 time this Commission determined rate base for this
7 utility for the purpose of setting rates was in
8 1985. At that time, rate base was determined to be
9 \$659,284. That amount reflected substantial used
10 and useful adjustments that are not being
11 considered here. If and when the new owners apply
12 for a rate increase, the \$2.8 million rate base
13 determined for purposes of a transfer will also be
14 subject to a used and useful analysis. Only that
15 portion determined to be used and useful by the
16 Commission will be the basis for setting rates. As
17 the Commission stated in its October 7, 1996 order
18 establishing rate base for this transfer, "The rate
19 base calculations are used purely to establish the
20 net book value of the property being transferred.
21 These calculations do not include the normal
22 ratemaking adjustment of working capital
23 calculations and used and useful adjustments."
24 (p.4 of Order; Emphasis added.)
25

1 Q. Does that conclude your rebuttal testimony.
2 A. Yes it does. No evidence has been presented to
3 show extraordinary circumstances warranting an
4 acquisition adjustment for ratemaking purposes and
5 none should be made.

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

ORIGINAL
FILE COPY

In Re: Application for Transfer)
of Certificate Nos. 404-W and)
341-S in Orange County from Econ)
Utilities Corporation to)
Wedgfield Utilities, Inc.)

DOCKET NO. 960235-WS

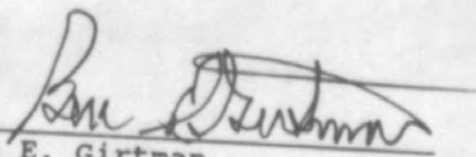
In Re: Application for)
Amendment of Certificate Nos.)
404-W and 341-S in Orange County)
by Wedgfield Utilities, Inc.)

DOCKET NO. 960283-WS

Submitted for Filing:
May 13, 1997

CERTIFICATE OF SERVICE

I HEREBY CEFTIFY that the original and fifteen copies of the attached Rebuttal Testimony of Frank Seidman has been filed with the Clerk, Division of Records and Reporting, Florida Public Service Commission, 2540 Shumard Oak Blvd., Tallahassee, FL 32399-0850 by hand delivery and that a true and correct copy has been sent to Charles Beck, Esq., Office of Public Counsel, 111 W. Madison St., Tallahassee, FL 32399-1400; to Mr. John Forrer, Econ Utilities, Inc., 1714 Hoban Rd. NW, Washington, D.C. 20007; and to Donna Cyrus-Williams Esq., Division of Legal Services, Florida Public Service Commission, 2540 Shumard Oak Blvd., Tallahassee, FL 32399-0850, by U.S. Mail this 13th day of May, 1997.



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